Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Division of Water Quality
1001 I Street • Sacramento, California 95814 • (916) 341-5536
Mailing Address: P.O. Box 1977 • Sacramento, California • 95812-1977
FAX (916) 341-5543 • http://www.waterboards.ca.gov/water_issues/programs/stormwater/

Arnold Schwarzenegger
Governor

February 18, 2010

Ca Dept of Transportation District 3 R5S
Storm Water or Environmental Coordinator
1120 N St
Sacramento, CA 95814

Dear Interested Party:

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES (CONSTRUCTION GENERAL PERMIT)

On September 2, 2009, the State Water Resources Control Board adopted Order No. 2009-0009-DWQ, which reissues the Construction General Permit (CGP) for projects disturbing one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface. Effective July 1, 2010, the requirements of this order will replace and supersede State Water Board Orders No. 99-08-DWQ and 2003-0007-DWQ. The purpose of this letter is to inform you of the most significant changes to and new requirements in Order No. 2009-0009-DWQ. This letter is not an enforceable component of Order No. 2009-009-DWQ.

We have identified two categories of dischargers that will be affected by this transition:

1. Existing dischargers with an active notice of intent (NOI) covered under Orders No. 99-08-DWQ and/or 2003-0007-DWQ will continue to comply with the existing permits until July 1, 2010. On July 1, 2010, all active NOIs subject to the existing permits will be terminated, and the dischargers must file electronically for coverage under Order No. 2009-0009-DWQ on or after the July 1, 2010 effective date. These dischargers will be subject to Risk Level 1 requirements regardless of their site's sediment and receiving water risks until September 2, 2011.

2. New dischargers obtaining coverage on or after July 1, 2010 will file electronically for coverage under Order No. 2009-0009-DWQ.

State Water Board Order No. 2009-0009-DWQ permit contains the following significant differences from Orders No. 99-08-DWQ and 2003-0007-DWQ:

Incorporation of Linear Underground/Overhead Utility Projects into the Construction General Permit

Order No. 2009-0009-DWQ includes, in Attachment A, requirements for all new or existing Linear Underground/Overhead Projects (LUPs) that are covered under the Small LUP General Permit 2003-0007-DWQ. LUPs will be broken into project segments designated as LUP Type 1, Type 2, and Type 3. These LUP Types are analogous to the risk levels for traditional construction projects.

Risk Based Permitting Approach

State Water Board Order No. 2009-0009-DWQ establishes three levels of risk possible for a construction site: Risk Level 1, 2, or 3. During the electronic Permit Registration Document (PRD) submittal process, dischargers will calculate their Project Risk in two parts:

1) Sediment Risk – The relative amount of sediment that can be discharged from the site.

SMARTS will require a discharger to calculate the R, K, and LS factors from the Revised Universal Soil Loss Equation (RUSLE) where,

R = rainfall erosivity value calculated through EPA's online calculator
K = soil erodibility factor obtained through a GIS map provided in SMARTS
LS = length-slope factor obtained through a GIS map provided in SMARTS

These factors are used to calculate a sediment risk of low, medium or high.

2) Receiving Water Risk – The risk sediment discharges pose to receiving waters.

High receiving water risk = projects that drain into water bodies that are either Clean Water Act 303(d) listed as impaired for sediment with an approved Total Maximum Daily Load (TMDL) **or** have beneficial uses of COLD, SPAWN, and MIGRATORY.

Low receiving water risk = all projects that are not high risk.

Table 1. Sediment Risk and Receiving Water Risk used to determine overall Project Risk.

Combined Risk Level Matrix				
		Sediment Risk		
		Low	Medium	High
Receiving Water Risk	Low	Level 1	Level 2	
	High	Level 2		Level 3

Technology-Based Numeric Action Levels
Numeric Action Levels (NALs) are values used as a warning for dischargers to evaluate their best management practices (BMPs) and take necessary corrective actions. NALs are not enforceable and apply to Risk Level 2 and 3 projects. Order No. 2009-0009-DWQ includes an NAL of 6.5-8.5[1] for pH and an NAL of 250 NTU for turbidity.

If an NAL is exceeded, your Regional Water Board may require the submittal of an NAL Exceedance Report.

Technology-Based Numeric Effluent Limitations
Numeric Effluent Limitations (NELs) are restrictions imposed on quantities, discharge rates, and concentrations of pollutants discharged from point sources. Order No. 2009-0009-DWQ contains a daily storm event average NEL of 6.0-9.0[2] for pH during any phase of construction where there is a high risk of pH discharge based on site activities, and a daily storm event average NEL of 500 NTU for turbidity. NELs are enforceable and apply to all Risk Level 3 sites.

If an NEL is exceeded, dischargers are required to submit an NEL Violation Report to the State Water Board within 24 hours after the NEL exceedance is identified. The NEL Violation Report should include sampling results as well as a description of the onsite BMPs and corrective actions taken to mitigate the NEL exceedance.

Best Management Practices (BMPs)
Order No. 2009-0009-DWQ imposes more specific controls and requirements that were previously only required as elements of the SWPPP or were suggested by guidance in Order No. 99-08-DWQ, and Order No. 2003-0007-DWQ.

Effluent Monitoring and Reporting
Order No. 2009-0009-DWQ requires effluent monitoring and reporting for pH and turbidity in storm water discharges from Risk Level 2 and 3 sites to determine compliance with the NELs and evaluate whether NALs are exceeded. Grab samples are collected from discharges that result from a qualifying rain event (producing precipitation of ½ inch or more at the time of discharge).

Receiving Water and Bioassessment Monitoring and Reporting
Order No. 2009-0009-DWQ requires receiving water monitoring and bioassessment monitoring for some Risk Level 3 sites. Receiving water monitoring is required for Risk Level 3 sites that have an NEL exceedance, and a direct discharge[3] to receiving waters.

[1] Values above or below this range constitute an exceedance of the NAL.
[2] Values above or below this range constitute an exceedance of the NEL.

[3] A discharge that is routed directly to waters of the United States by means of a pipe, channel, or ditch (including a municipal storm sewer system), or through surface runoff.

Bioassessment monitoring is required for Risk Level 3 sites disturbing 30 acres or larger and have a direct discharge to receiving waters.

Post-Construction Storm Water Performance Standards

The new CGP specifies runoff reduction requirements for all construction sites not covered by an active Phase I or Phase II Municipal Separate Storm Sewer System (MS4) NPDES permit with an approved Storm Water Management Plan. This provision takes effect on September 2, 2012. Any construction sites active on or after September 2, 2012, must comply with this requirement or submit a request for an extension to the Executive Officer of your Regional Water Board.

During the electronic PRD submittal process, dischargers will complete a Post-Construction Water Balance Performance Standard Spreadsheet. The spreadsheet helps dischargers calculate the project-related increase in runoff, and provides runoff reduction credits to reduce the project-related increase in runoff volume to pre-project levels.

Dischargers have the option of using a more sophisticated, watershed process-based model (e.g. Storm Water Management Model, Hydrological Simulation Program Fortran) to determine the project-related increase in runoff volume.

Rain Event Action Plan

The new CGP requires Risk Level 2 and 3 project sites to develop and implement a Rain Event Action Plan (REAP). REAPs must be designed to protect all exposed portions of the site within 48 hours prior to any likely precipitation event. The California Storm Water Quality Association (CASQA) Construction Best Management Practices Handbook has been updated to provide REAP development guidance.

Annual Reporting

The new CGP requires all projects to submit an Annual Report no later than September 1 of each year using SMARTS. The Annual Report must include:

- a summary and evaluation of all sampling and analysis results,
- laboratory reports,
- a summary of all corrective actions taken during the compliance year, and
- identification of any compliance activities or corrective actions that were not implemented.

Certification & Training Requirements for Key Project Personnel

Order No. 2009-0009-DWQ requires that key personnel have specific training or certifications to ensure that they are qualified to design and evaluate project specifications to comply with permit requirements.

A Qualified SWPPP developer (QSD) must have the prerequisite registrations and certifications listed in Section VII of the CGP by July 1, 2010, and must have attended a State Water Board-sponsored or approved QSD training course by September 2, 2011.

A Qualified SWPPP practitioner (QSP) must have the prerequisite registrations and certifications listed in Section VII of the CGP, and will have attended a State Water Board-sponsored or approved QSD training course by September 2, 2011.

Rainfall Erosivity Waiver

The CGP provides a waiver from permitting requirements for small construction sites (>1 and <5 acres) that are able to certify that the rainfall erosivity value (R value) for their site's given location and time frame computes to less than or equal to 5. Dischargers will perform this calculation using the USEPA low erosivity waiver calculator when electronically filing for coverage. Eligible dischargers will complete the electronic Notice of Intent (NOI) and Sediment Risk form through the State Water Board's Storm Water Multi Application and Report Tracking System (SMARTS), where they will certify that their construction activity will take place during a period when the R value is less than or equal to 5.

Please direct any questions regarding State Water Board Order No. 2009-0009-DWQ to the staff in the Storm Water Section at (866) 563-3107 or stormwater@waterboards.ca.gov

Sincerely,

Bruce Fujimoto
DWQ - Stormwater